

CAUSE NO. 2021-68290

YEJI YUN <i>Plaintiff</i>	§	IN THE DISTRICT COURT OF
	§	
v.	§	
	§	
ESA P PORTFOLIO, LLC D/B/A EXTENDED STAY AMERICA HOUSTON AND EXTENDED STAY AMERICA, INC. <i>Defendants</i>	§	HARRIS COUNTY, TEXAS
	§	
	§	<u>80th</u> JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Yeji Yun files this Original Petition against Defendants ESA P Portfolio, LLC, d/b/a Extended Stay America Houston, and Extended Stay America, Inc. (collectively, the "Defendants"), and shows as follows:

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure and affirmatively pleads that this lawsuit is not governed by the expedited-actions process pursuant Texas Rule of Civil Procedure 169.

RULE 47 STATEMENT

2. Plaintiff seeks monetary relief of between \$250,000 and \$1,000,000 and all other relief to which she is entitled.

PARTIES

3. Plaintiff Yeji Yun is an individual and a citizen of the State of Texas.

4. Defendant ESA P Portfolio, LLC, is a Foreign Limited Liability Company which owns, operates, manages, and does business as Extended Stay America Houston and is located at 11175 Katy Fwy., Houston, TX 77079. It may be served with citation by serving its registered agent, National Registered Agents, Inc., at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

EXHIBIT B

5. Defendant Extended Stay America, Inc., is a foreign for-profit corporation that owns, operates, manages, and does business as Extended Stay America Houston and is located at 11175 Katy Fwy., Houston, TX 77079. Extended Stay America does not have a registered agent for service of process in the State of Texas but may be served with citation through the Texas Secretary of State pursuant to the Texas Long-Arm Statute of the Texas Civil Practice and Remedies Code § 17.044.

ASSUMED NAME

6. Pursuant to Rule 28 of the Texas Rules of Civil Procedure, Plaintiff hereby moves to substitute the true name of any defendant(s) operating under an assumed or common name, whether defendant(s) is a partnership, joint enterprise, unincorporated association, private corporation, or individual.

JURISDICTION & VENUE

7. Jurisdiction is proper in this Court because the amount in controversy is within the jurisdictional limits of the Court.

8. Venue is proper in this County because one or more of Defendants reside in this County, and because the tortious acts and omissions at issue in this lawsuit occurred in this County.

FACTUAL BACKGROUND

9. According to the Centers for Disease Control and Prevention (the “CDC”), *Cimex lectularius*, more commonly known as “bed bugs,” are “small, flat, parasitic insects that feed solely on the blood of people and animals while they sleep.” They are “found across the globe from North and South America, to Africa, Asia and Europe. Although the presence of bed bugs has traditionally been seen as a problem in developing countries, it has recently been spreading rapidly to parts of the United States, Canada, the United Kingdom, and other parts of Europe. Bed bugs

have been found in five-star hotels and resorts and their presence is not determined by the cleanliness of the living conditions where they are found.”¹

10. According to the CDC, “one of the easiest ways to identify a bed bug infestation is by the tell-tale bite marks on the face, neck, arms, hands, or any other body parts while sleeping.”² Additionally, “because bed bug bites affect everyone differently, some people may have no reaction and will not develop bite marks or any other visible signs of being bitten. Other people may be allergic to the bed bugs and can react adversely to the bites. These allergic symptoms can include enlarged bite marks, painful swellings at the bite site, and, on rare occasions, anaphylaxis.”³

11. On or about October 19, 2019, Plaintiff Yeji Yun was a guest of the Defendants at Extended Stay America Houston, which is owned, managed, and operated by Defendants.

12. On or about October 20, 2019, while staying at the Defendants’ hotel, Plaintiff Yeji Yun noticed bites on her body. She was checking out of the hotel at the time she noticed the injuries on her neck and arms. Throughout the day, the bites kept swelling into larger welts, about 15-20 bites, some which swelled to the size of her palm.

13. Upon realizing she had been bitten by bed bugs while a guest of the hotel, she immediately notified the hotel.

14. On or about October 21, 2019, Plaintiff Yeji Yun was treated by Dr. William Berkley of Premiere Family Physicians who confirmed that Plaintiff’s injuries were caused by the bed bug infestation at Defendants’ hotel and prescribed medications to treat the injuries.

¹ See <https://www.cdc.gov/parasites/bedbugs/faqs.html> (last visited June 23, 2021).

² See *id.*

³ See *id.*

15. As a result of the incident, Plaintiff incurred various damages and expenses, including pain and suffering (past and future), medical costs (past and future), the cost of the hotel room, the replacement cost of her belongings exposed to the infestation at the hotel, and other costs.

16. Defendants deliberately, recklessly and/or negligently chose not to inspect or otherwise ensure that Plaintiff's hotel room, was free of *Cimex lectularius* ("bed bugs") immediately before Plaintiff's tenancy began.

17. Although Defendants had prior knowledge of bed bug infestations in the hotel, Defendants failed to eradicate such infestations, including an infestation in the room where Plaintiff stayed.

18. Defendants deliberately chose not to notify or otherwise failed to notify Plaintiff of the presence of *Cimex lectularius* in Plaintiff's hotel room.

19. Defendants knew or should have known that its hotel, and specifically Plaintiff's room, had a bed bug infestation. Defendants deliberately and/or recklessly chose to turn a blind eye to this infestation. Defendants did not place adequate safeguards to protect guests, including Plaintiff, from bed bug exposure.

20. Defendants' actions before, during, and after Plaintiff's injuries show that Defendants have a pattern and culture of extreme indifference and reckless disregard for the value of human life and the safety of its guests.

21. As part of Defendants' pattern and culture of extreme indifference, Defendants did not implement adequate policies and procedures to sufficiently train employees to inspect hotel room for bed bug infestations and to protect guests, including Plaintiff, from exposure to bed bug infestations.

22. Plaintiff has suffered physical injuries (including, but not limited to, bed bug bites, itching, and scarring) and emotional injuries (including, but not limited to, severe embarrassment, annoyance, discomfort, pain, apprehension, tension, anxiety, and emotional distress) as a direct result of the negligence of the Defendants.

23. Plaintiff brings this action because the Defendants' actions were the proximate cause of the injuries suffered by Plaintiff.

CAUSES OF ACTION

24. Every paragraph below is cumulative of each and every paragraph preceding it.

I. Negligence

25. At all times relevant hereto, as owners, operators, and/or managers of their hotel, Defendants owed Plaintiff the duty to exercise reasonable care in the operation and maintenance of the hotel and to keep the hotel free from vices or defects that would render it uninhabitable. This duty includes but is not limited to maintain the hotel in a safe and habitable condition and to keep it free from insect infestations, namely infestations of *Cimex lectularius*, for the entire duration of Plaintiff's stay.

26. Defendants breached their above duties when they, among other things:

- a. allowed an infestation of bed bugs to become established in Plaintiff's room at the Extended Stay America and still rented it to Plaintiff;
- b. failed to eradicate a prior (or ongoing) bed bug infestation in Plaintiff's room;
- c. did not ensure that the bed in Plaintiff's room was free from bed bugs before renting it to Plaintiff;
- d. failed to notify Plaintiff of the presence of bed bugs upon checking in; and

- e. chose not to inspect and did not ensure that Plaintiff's room was free from bed bugs before renting it to Plaintiff, despite knowledge of prior infestations in Plaintiff's room.

27. As a direct and proximate result of these breaches of duty by Defendants, Plaintiff suffered numerous bed bug bites, and continue to suffer psychological injury.

28. Defendants committed the tortious acts and omissions indicated above, for which it knew, or should have known, would be highly probable that Plaintiff would be bitten by bed bugs and harm would result.

29. The Defendants' intentional, reckless, and negligent actions and omissions and breaches of their warranties to Plaintiff are the proximate cause of the Plaintiff's injuries.

II. Gross Negligence

30. The Defendants' actions and omissions constitute gross negligence because their behavior, when viewed objectively from their own standpoint at the time, involved an extreme degree of risk (considering the probability and magnitude of the potential harm to others), and each of them had actual, subjective awareness of the risks involved but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others, including Plaintiff.

31. The Defendants' gross negligence proximately caused Plaintiff's injuries.

COMPENSATORY DAMAGES

32. As a result of the incident made the basis of this lawsuit, Plaintiff sustained injuries and damages in the past and will likely continue to endure injuries and damages in the future.

33. Plaintiff respectfully requests that the trier of fact determine the amount of damages and losses that she has and will incur, which include, but are not limited to:

- a. past and future medical expenses;
- b. past and future loss of earning capacity;

- c. past and future physical pain and suffering;
- d. past and future mental anguish;
- e. past and future impairment; and
- f. past and future disfigurement.

EXEMPLARY DAMAGES

34. Plaintiff is entitled to recover exemplary damages against Defendants because the Plaintiff's injuries resulted from the Defendants' gross negligence.

CONDITIONS PRECEDENT

35. All conditions precedent to the Plaintiff's recovery requested herein have been satisfied or have occurred.

INITIAL DISCLOSURES

36. Defendants must provide to all other parties the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure within 30 days after the filing of the first answer or general appearance, or, thereafter, within 30 days after being served or joined.

RULE 193.7 NOTICE

37. Please take notice that Plaintiff intends to use all documents produced by Defendants in the trial of this matter.

JURY DEMAND

38. Plaintiff demands a jury trial.

PRAYER

Plaintiff asks the Court for the relief sought herein and prays that Defendants be cited to appear and upon final trial that Plaintiff be awarded judgment against Defendants for:

- a. compensatory damages;

- b. exemplary damages;
- c. courts costs;
- d. pre- and post-judgment interest; and
- e. all other relief to which Plaintiff is entitled.

Respectfully submitted,

WYNNE & POUPORE LLP

/s/ Bob Wynne

Bob Wynne

Texas Bar No. 24060861

Jourdain Poupore

Texas Bar No. 24094901

3233 W. Dallas St., Suite 313

Houston, Texas 77019

Tel: 713-922-1655

service@wynnepoupore.com

Attorneys for Plaintiff



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

10/18/2021 3:03 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 58285941
By: Lisa Thomas
Filed: 10/18/2021 3:03 PM

Request for Issuance of Service

CASE NUMBER: 2021-68290

CURRENT COURT: 80th District Court

Name(s) of Documents to be served: Plaintiff's Original Petition

FILE DATE: 10/18/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Extended Stay America, Inc.

Address of Service: PO Box 49550

City, State & Zip: Charlotte, NC 28277-9550

Agent (if applicable) Texas Secretary of State

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias | Newspaper _____ | | |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | | | |
| <input checked="" type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not by E-Issuance) | <input type="checkbox"/> Attachment (not by E-Issuance) | |
| <input type="checkbox"/> Certiorari | <input type="checkbox"/> Highway Commission (\$12.00) | | |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00) | <input type="checkbox"/> Hague Convention (\$16.00) | <input type="checkbox"/> Garnishment | |
| <input type="checkbox"/> Habeas Corpus (not by E-Issuance) | <input type="checkbox"/> Injunction | <input type="checkbox"/> Sequestration | |
| <input type="checkbox"/> Subpoena | | | |
| <input type="checkbox"/> Other (Please Describe) _____ | | | |

(See additional Forms for Post Judgment Service)

- SERVICE BY (check one):**
- | | |
|--|---|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____ | <input type="checkbox"/> E-Issuance by District Clerk
(No Service Copy Fees Charged) |
| <input type="checkbox"/> MAIL to attorney at: _____ | Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.
Visit www.hcdistrictclerk.com for more instructions. |
| <input type="checkbox"/> CONSTABLE | |
| <input checked="" type="checkbox"/> CERTIFIED MAIL by District Clerk | |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ | |
| <input type="checkbox"/> OTHER, explain _____ | |

Issuance of Service Requested By: Attorney/Party Name: Bob Wynne Bar # or ID 24060861

Mailing Address: 3233 W. Dallas St., Suite 313, Houston, TX 77019

Phone Number: 713.922.1655

EXHIBIT B



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

Marilyn Burgess - District Clerk Harris County

Envelope No. 58285941

By: Lisa Thomas

Filed: 10/18/2021 3:03 PM

Request for Issuance of Service

CASE NUMBER: 2021-68290CURRENT COURT: 80th District CourtName(s) of Documents to be served: Plaintiff's Original PetitionFILE DATE: 10/18/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: ESA P Portfolio, LLC d/b/a Extended Stay America HoustonAddress of Service: 1999 Bryan Street, Suite 900City, State & Zip: Dallas, TX 75201Agent (if applicable) National Registered Agents, Inc.

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- ☒ Citation ☐ Citation by Posting ☐ Citation by Publication ☐ Citations Rule 106 Service
☐ Citation Scire Facias Newspaper _____
☐ Temporary Restraining Order ☐ Precept ☐ Notice
☐ Protective Order
☐ Secretary of State Citation (\$12.00) ☐ Capias (not by E-Issuance) ☐ Attachment (not by E-Issuance)
☐ Certiorari ☐ Highway Commission (\$12.00)
☐ Commissioner of Insurance (\$12.00) ☐ Hague Convention (\$16.00) ☐ Garnishment
☐ Habeas Corpus (not by E-Issuance) ☐ Injunction ☐ Sequestration
☐ Subpoena
☐ Other (Please Describe) _____

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP (phone) _____
☐ MAIL to attorney at: _____
☐ CONSTABLE
☐ CERTIFIED MAIL by District Clerk
☒ E-Issuance by District Clerk
 (No Service Copy Fees Charged)
Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents. Visit www.hcdistrictclerk.com for more instructions.
☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
☐ OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: Bob Wynne Bar # or ID 24060861Mailing Address: 3233 W. Dallas St., Suite 313, Houston, TX 77019Phone Number: 713.922.1655

EXHIBIT B



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

10/19/2021 2:44 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 58331756
By: Lisa Thomas
Filed: 10/19/2021 2:44 PM

Request for Issuance of Service

CASE NUMBER: 2021-68290

CURRENT COURT: 80th District Court

Name(s) of Documents to be served: Plaintiff's Original Petition

FILE DATE: 10/18/2021 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Extended Stay America, Inc.

Address of Service: PO Box 49550

City, State & Zip: Charlotte, NC 28277-9550

Agent (if applicable) Texas Secretary of State Citations Unit - P.O. Box 12079 Austin, TX 78711

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias | Newspaper _____ | | |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | | | |
| <input checked="" type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not by E-Issuance) | <input type="checkbox"/> Attachment (not by E-Issuance) | |
| <input type="checkbox"/> Certiorari | <input type="checkbox"/> Highway Commission (\$12.00) | | |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00) | <input type="checkbox"/> Hague Convention (\$16.00) | <input type="checkbox"/> Garnishment | |
| <input type="checkbox"/> Habeas Corpus (not by E-Issuance) | <input type="checkbox"/> Injunction | <input type="checkbox"/> Sequestration | |
| <input type="checkbox"/> Subpoena | | | |
| <input type="checkbox"/> Other (Please Describe) _____ | | | |

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- | | |
|--|---|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____ | <input type="checkbox"/> E-Issuance by District Clerk
(No Service Copy Fees Charged) |
| <input type="checkbox"/> MAIL to attorney at: _____ | Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.
Visit www.hcdistrictclerk.com for more instructions. |
| <input type="checkbox"/> CONSTABLE | |
| <input checked="" type="checkbox"/> CERTIFIED MAIL by District Clerk | |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ | |
| <input type="checkbox"/> OTHER, explain _____ | |

Issuance of Service Requested By: Attorney/Party Name: Bob Wynne Bar # or ID 24060861

Mailing Address: 3233 W. Dallas St., Suite 313, Houston, TX 77019

Phone Number: 713.922.1655

EXHIBIT B

10/26/2021 2:20 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 58552615
By: DANIELLE JIMENEZ
Filed: 10/26/2021 2:20 PM

CAUSE NUMBER: 2021-68290

**YEJI YUN
PLAINTIFF**

VS.

**IN THE 80TH JUDICIAL DISTRICT COURT
OF HARRIS COUNTY, TEXAS**

**ESA P PORTFOLIO, LLC D/B/A EXTENDED
STAY AMERICA HOUSTON AND
EXTENDED STAY AMERICA, INC.
DEFENDANT**

RETURN OF SERVICE

My name is **GUY CONNELLY**. I am over the age of eighteen (18), I am not a party to this case, and have no interest in its outcome. I am in all ways competent to make this affidavit and this affidavit is based on personal knowledge. The facts stated herein are true and correct. My business address is: 1320 QUITMAN ST. STE 100, HOUSTON, HARRIS COUNTY, TX 77009, U.S.A.

ON Wednesday October 20, 2021 AT 11:13 AM - CITATION, PLAINTIFF'S ORIGINAL PETITION, came to hand for service upon ESA P PORTFOLIO LLC (D/B/A EXTENDED STAY AMERICA HOUSTON) (A FOREIGN LIMITED LIABILITY COMPANY) BY SERVING ITS REGISTERED AGENT, NATIONAL REGISTERED AGENTS INC..

On Thursday October 21, 2021 at 12:30 PM - The above named documents were hand delivered to: ESA P PORTFOLIO LLC (D/B/A EXTENDED STAY AMERICA HOUSTON) (A FOREIGN LIMITED LIABILITY COMPANY) BY SERVING ITS REGISTERED AGENT, NATIONAL REGISTERED AGENTS INC. @ 1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201, in Person. By delivering to Brett Bagwell, designated agent.

FURTHER AFFIANT SAYETH NOT.

STATE OF TEXAS

DECLARATION

"My name is **GUY CONNELLY**, my date of birth is 11/04/1951 my business address is **1320 QUITMAN STREET, HOUSTON, TX 77009**, and I declare under penalty of perjury that this affidavit is true and correct."

Executed in **Collin County, State of Texas on Tuesday October 26, 2021**

/s/GUY CONNELLY

Declarant

PSC#2201 EXP. 09/30/22

Appointed in accordance with State Statutes

2021.10.599556

EXHIBIT B

CAUSE NO. 2021-68290

YEJI YUN	§	IN THE DISTRICT COURT OF
<i>Plaintiff</i>	§	
	§	
v.	§	
	§	HARRIS COUNTY, TEXAS
ESA P PORTFOLIO, LLC D/B/A EXTENDED	§	
STAY AMERICA HOUSTON AND EXTENDED	§	
STAY AMERICA, INC.	§	
<i>Defendants</i>	§	80th JUDICIAL DISTRICT

NOTICE OF ATTORNEY CHANGE OF FIRM AFFILIATION

Please take notice of the new firm affiliation of Bob Wynne, the undersigned counsel and attorney in charge for Plaintiff Yeji Yun.

Therefore, Plaintiff requests that the Court, the Clerk, and all counsel of record serve all documents required to be served under Rule 21 and/or Rule 21a of the Texas Rules of Civil Procedure on the undersigned counsel at the following addresses:

THE WYNNE FIRM, P.C.
3701 Kirby Drive, Suite 760
Houston, Texas 77098
service@justwynnelaw.com

Respectfully submitted,

THE WYNNE FIRM, P.C.

/s/ Bob Wynne
Bob Wynne
Texas Bar No. 24060861
3701 Kirby Drive, Suite 760
Houston, Texas 77098
Tel: 281-813-8959
service@justwynnelaw.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record pursuant to the Texas Rules of Civil Procedure on November 15, 2021:

/s/ Bob Wynne
Bob Wynne

CAUSE NO. 2021-68290

YEJI YUN	§	IN THE DISTRICT COURT
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
ESA P PORTFOLIO, LLC d/b/a	§	
EXTENDED STAY AMERICA	§	
HOUSTON and EXTENDED STAY	§	
AMERICA, INC.	§	80TH DISTRICT COURT

**DEFENDANT, ESA P PORTFOLIO, LLC'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **ESA P PORTFOLIO, LLC**, Defendant, in the above-entitled and numbered cause and files this its *Original Answer to Plaintiff's Original Petition* and would respectfully show unto the Court the following:

I.

Defendant asserts a general denial as is authorized by Rule 92 of the TEXAS RULES OF CIVIL PROCEDURE, and Defendant requests that Plaintiff be required to prove her charges and allegations against Defendant by a preponderance of the evidence as is required by the Constitution and law of the State of Texas.

II.

Defendant respectfully reserves the right to amend this Answer to Plaintiff's allegations after it has had an opportunity to more closely investigate the claims, as is its right and privilege under the TEXAS RULES OF CIVIL PROCEDURE and the laws of the State of Texas.

III.

Pursuant to Rule 193.7 of the TEXAS RULES OF CIVIL PROCEDURE, Plaintiff and her counsel are placed on notice that any and all documents produced by or on behalf of the Plaintiff may be used at pretrial hearings and trial.

IV.

DISCOVERY CONTROL PLAN

Discovery in this case should be conducted under Level 3, TEXAS RULES OF CIVIL PROCEDURE 190.4 *et seq.* and defense counsel hereby requests the deposition of Plaintiff at a reasonable time following the exchange of preliminary written discovery, and the procurement by Defendant of all pertinent medical records.

WHEREFORE, PREMISES CONSIDERED, Defendant, **ESA P PORTFOLIO, LLC**, prays that Plaintiff take nothing by reason of her suit and for costs and for such other and further relief to which she may show herself justly entitled to receive.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH, LLP

/s/ Matthew R. Begley

MATTHEW R. BEGLEY

Texas Bar No. 24076265

Matthew.Begley@lewisbrisbois.com

24 Greenway Plaza, Suite 1400

Houston, Texas 77046

(713) 659-6767—Telephone

(713) 759-6830—Facsimile

**ATTORNEY FOR DEFENDANT,
ESA P PORTFOLIO, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record pursuant to the TEXAS RULES OF CIVIL PROCEDURE via e-mail, facsimile transmission, certified mail, regular mail, or hand delivery on this the 15TH day of November 2021:

Bob Wynne
Jourdain Poupore
WYNNE & POUPORE LLP
3233 W. Dallas Street, Suite 313
Houston, TX 77019

Via E-Mail: service@wynnepoupore.com

/s/ Matthew R. Begley
MATTHEW R. BEGLEY

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Emily Thompson on behalf of Matt Begley
Bar No. 24076265
emily.thompson@lewisbrisbois.com
Envelope ID: 59177199
Status as of 11/15/2021 4:22 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Bob Wynne		service@justwynnelaw.com	11/15/2021 4:16:28 PM	SENT
Matthew Begley		Matthew.Begley@lewisbrisbois.com	11/15/2021 4:16:28 PM	SENT
Emily F.Thompson		Emily.Thompson@lewisbrisbois.com	11/15/2021 4:16:28 PM	SENT